

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

FRED SMITH,

Plaintiff,

v.

Case No. 1:24-cv-00248

GEORGE DROSIS

and GEORGE HEITMANIS,

Defendants.

COUNSEL'S BRIEF IN RESPONSE TO ORDER TO SHOW CAUSE

INTRODUCTION

1. I, Matthew D. Elias, undersigned counsel, submit this brief in response to the Court's Order to Show Cause regarding the dismissal of the present action and the imposition of Rule 11 sanctions. Plaintiff respectfully submits that the imposition of such sanctions is unwarranted and that voluntary dismissal alone is appropriate under the circumstances.

2. Plaintiff has taken steps to voluntarily dismiss this action as of December 13th, 2024. Under Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.

ARGUMENT AGAINST RULE 11 SANCTIONS

3. Plaintiff's initial filing was grounded in a good faith but mistaken belief that federal jurisdiction could be asserted due to the diversity of citizenship and the significant monetary

amount in controversy. The complexity of the probate proceedings and the potential for interference with Plaintiff's property rights justified seeking relief in this Court.

4. While the Court has determined that abstention principles apply, Plaintiff's legal contentions were not frivolous. The arguments were admittedly based on misguided and incomplete interpretations of existing law concerning diversity jurisdiction and the Anti-Injunction Act. The primary intent was to protect Plaintiff's rights in property wrongfully detained, as alleged in the initial complaint.

5. Plaintiff did not file this action to harass or cause unnecessary delay. The intent was solely to protect Plaintiff's interests in the property identified. Upon careful reassessment and reflection, Plaintiff acknowledges the procedural missteps along with other jurisdictional inadequacies and has moved promptly to dismiss the action voluntarily.

CONCLUSION

6. In light of the above, Plaintiff respectfully requests that the Court accept the voluntary dismissal of this action filed December 13th, 2024 and refrain from imposing Rule 11 sanctions. The filing was made with the belief that it was necessary to protect Plaintiff's legal rights and was not for any improper purpose. Plaintiff and counsel acknowledge the Court's jurisdictional concerns and appreciate the opportunity to address them through dismissal.

DATED THIS December 31st, 2024

/s/ Matthew Daniel Elias

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